HONOURABLE SRI JUSTICE K.C. BHANU

W.P.No.20779 of 2005

Dated 22nd September, 2005

Between:

Mandalapu Seshagiri Rao .. Petitioner

And

The Executive Officer, Sree Bhimalingeswara
Swamy Temple, Narasaraopet, Guntur Dist.
and three others .. Respondents

HONOURABLE SRI JUSTICE K.C. BHANU

W.P.No.20779 of 2005

ORAL ORDER:

This writ petition is filed seeking a Mandamus declaring the action of the 1st respondent in issuing the auction notice, dated 1.9.2005 for conducting auction to the land of an extent of Ac.4.00 cents belonging to Sree Bhimalingeswara Swamy Temple situated in

Pathuru, Narasaraopet,Guntur District, as arbitrary and illegal.

The learned counsel for the petitioner has contended that the petitioner is a landless poor person, the 4th respondent issued a certificate certifying the petitioner that he does not have any agricultural lands, and the petitioner made an application on 12.9.2005 to the 2nd respondent-Asst. Commissioner of Endowments to declare him as a landless poor person, and hence, he prays to allow the writ petition.

The learned Government Pleader for Endowments has opposed this contention.

The petitioner claims that he has been a cultivating tenant in respect of Ac.4.00 cents of land in D.No.294/B, belonging to Sree Bhimalingeswara Swamy Temple for the last 40 years. Except oral instruction, there is no document filed by him to show that he is a cultivating tenant in respect of the land in question. He further stated that he filed an application to the Asst. Commissioner of Endowments to declare him as a landless poor person. He also relied upon a certificate issued by the 4th respondent which shows that he does not own any agricultural lands and he stated that he earns Rs.11,000/- per month as cultivating tenant. The learned counsel for the petitioner has placed reliance on the decision of this Court in W.P.No.12541 of 2003, dated 13.8.2003 between ***R.V.Subbaih Vs. State of A.P.*** wherein it was held to the following effect:

> *"Where an application is made by the petitioners within three weeks from today till appropriate orders are passed by the Assistant Commissioner determining the status of the cultivating tenant and till 30 days time prescribed for preferring appeal under Rule 4 of the Rules is expired the impugned notice issued in Form-1 under Rule 5(1) of the Rules shall not be given effect to and till such time all the parties are directed to maintain Status quo obtaining as on today as to the possession of the land in question, subject to payment of rents payable regularly."*

If the petitioner is really a landless poor person he should have filed an appropriate application before the 2nd respondent well in advance,

but he has not raised his little finger. The auction notice was issued on 1.9.2005, but the application to determine the petitioner as a landless poor person was made on 12.9.2005 and the reasons are obvious for holding the auction. The application seems to have been filed by the petitioner, and therefore, he is indulging in pure speculation and no right of the petitioner is infringed.

The writ petition is devoid of merits and is dismissed. However, this order will not preclude the 2nd respondent from passing appropriate orders on the application filed by the petitioner. No costs.

22.09.2005

bcj